S.B. CIVIL WRIT PETITION NO. 4723/2004.
(JAGDISH LAL GURJAR VS. STATE)

DATE OF ORDER : 15.01.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr.Rajendra Singh for Mr. P.S.Bhati for the petitioner.
Mr.B.L. Tiwari, Dy. GA, for the respondent/s.

By an order dated 15.01.1994, the Assistant Engineer, Public, Health and Engineering Department, Revenue, Sub-division I, Udaipur dis-continued 17 persons including the petitioner from service. According to the petitioner all 16 persons, except the petitioner who were dis-continued from service under the order dated 15.01.1994 were re-employed, but the similar treatment was not extended to him, hence he preferred a writ petition before this Court (SBCW Petition No.2191/96), that came to be decided on 13.12.1999 with a direction to the respondents to consider the case of the petitioner for re-employment. The respondents by an order dated 01.05.2002 held that no vacancy was available with the Department concerned in the year 1994 and there was also a ban for making appointment, therefore, appointment could not be given to the petitioner. Being aggrieved by the same, this petition for writ is preferred.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the petitioner was never in their continuous employment and was also not entitled for re-employment in light of the provision of Rajasthan Public Works (Building and Roads including Gardens, Irrigation, Water works, Ayurvedic work) charged employees Service Rules, 1964).

From perusal of the averments contained in reply to the writ petition, it also appears that the respondents have disputed the facts with regard to the averments made by the petitioner for extension of similar treatment viz-a-viz. Other 16 employees. The dispute raised by the petitioner is essentially an industrial dispute and for adjudication of that an efficacious alternative remedy is prescribed under Section 10 of the Industrial Disputes Act, 1947. In the instant matter, there are number of questions of fact and those are required to be settled by recording the evidence of the parties concerned.

In view of it, I am of the considered opinion that the petitioner should have availed the alternative remedy available to him under the Act of 1947. The writ petition, therefore, is dismissed. No order to cost.

(GOVIND MATHUR)J.

Anil/